

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KIRSHA BROWN-YOUNGER,

Plaintiff,

vs.

STATE OF NEVADA,

Defendant.

Case No.: 2:11-cv-01003-GMN-GWF

**ORDER ACCEPTING
MAGISTRATE JUDGE'S FINDINGS
AND RECOMMENDATIONS**

Before the Court is the Honorable Magistrate Judge George Foley, Jr.'s Findings and Recommendations on Plaintiff Kirsha Brown-Younger's Application to Proceed in Forma Pauperis (ECF No. 9). Plaintiff filed an Objection to the Magistrate Judge's Recommendation that Plaintiff's Complaint be dismissed. (ECF No. 10.)

Pursuant to 28 U.S.C. § 1915(a), Plaintiff filed this action and attached a financial affidavit to her application and complaint. (ECF No. 1.) Plaintiff filed an additional complaint on July 1, 2011, which the Magistrate Judge reviewed together with Plaintiff's initial complaint. (ECF No. 4.) The Magistrate Judge granted Plaintiff's request to proceed in forma pauperis, but recommended dismissal of Plaintiff's complaint pursuant to 28 U.S.C. § 1915(e), with prejudice. (ECF No. 9.)

Plaintiff filed her Complaint as a civil rights action pursuant to 42 U.S.C. § 1983, and appears to be an attempt to sue the government of the State of Nevada, the government of the United States, and the Las Vegas Metropolitan Police Department ("LVMPD") based on allegations of electronic harassment or stalking. Plaintiff alleges a violation of the Conspiracy Against Rights Act and the Electronic Communications Interception/Title II Wiretap Act.

Because states are not persons for purposes of 42 U.S.C. § 1983, and therefore, § 1983

1 claims are legally frivolous, the Magistrate Judge dismissed Plaintiff's claims against the State
2 of Nevada and the United States. *See Jackson v. Arizona*, 885 F.2d 639, 641 (9th Cir. 1989).
3 The Magistrate Judge dismissed Plaintiff's claim against the LVMPD for failure to identify a
4 specific officer or employee that violated Plaintiff's rights, and for failure to establish the
5 existence of a policy that encouraged or condoned LVMPD officers' alleged unconstitutional
6 actions. *See Monell v. Dept. of Social Services*, 436 U.S. 658 (1978).

7 Local Rule IB 3-1 provides that "[a] district judge may reconsider any pretrial matter
8 referred to a magistrate judge in a civil... case... where it has been shown that the magistrate
9 judge's ruling is clearly erroneous or contrary to law." This standard is significantly deferential
10 to the initial ruling, and the court will only overturn the magistrate judge's decision if, upon
11 review, the court is left with a definite and firm conviction that a mistake has been made. *See*
12 *David H. Tedder & Assoc., Inc. v. United States*, 77 F.3d 1166, 1169-70 (9th Cir. 1996).

13 Here, the Court does not find that the Magistrate Judge's ruling is clearly erroneous or
14 contrary to law. Plaintiff's complaint fails to state a claim upon which relief may be granted and
15 Plaintiff's allegations are legally frivolous. Therefore, the Magistrate Judge reasonably
16 recommended dismissal of Plaintiff's complaint, with prejudice.

17 **IT IS HEREBY ORDERED** that Magistrate Judge Foley's Findings and
18 Recommendations (ECF No. 9) is **ACCEPTED**.

19 DATED this 12th day of December, 2011.

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23 Gloria M. Navarro
24 United States District Judge
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